

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DALE K. LITTLE,

Petitioner,

v.

ORDER
01-CV-100A

JOSEPH F. McCOY, Superintendent,
Cayuga Correctional Facility,

Respondent.

On February 13, 2001, petitioner filed a petition for a writ of habeas corpus. On May 1, 2001, the case was referred to Magistrate Judge H. Kenneth Schroeder, Jr. pursuant to 28 U.S.C. § 636(b)(1). On March 7, 2005, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that the petition for habeas corpus relief be dismissed and that a certificate of appealability should not issue.

Petitioner filed objections to the Report and Recommendation on March 23, 2005. Respondent filed a response thereto.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which

objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, the petition for habeas corpus relief is dismissed. The Court finds that petitioner has failed to make a substantial showing of the denial of a constitutional right and therefore denies the issuance of a certificate of appealability. 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT JUDGE

Dated: June 7, 2005